

Dated: September 13, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

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International Trade Administration

[A-570-842]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 10, 1995.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Everett Kelly, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-4136 or (202) 482-4194, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Rounds Agreements Act (URAA).

Preliminary Determination

We preliminarily determine that polyvinyl alcohol (PVA) from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on March 29, 1995 (60 FR 17053, April 4, 1995) the following events have occurred:

On April 18, 1995, we sent a survey to the PRC's Ministry of Foreign Trade and Economic Cooperation (MOFTEC) requesting the identification of producers and exporters, and information on production and sales of PVA exported to the United States. We received a response in May 1995, identifying Sichuan Vinylon Works (Sichuan) and Guangxi Import and Export Corporation (Guangxi) as companies who sold the subject

merchandise during the period of investigation (POI).

On April 24, 1995, the United States International Trade Commission (ITC) notified the Department of Commerce (the Department) of its affirmative preliminary determination.

In May 1995, the Department presented questionnaires to MOFTEC and counsel for Guangxi and Sichuan. Responses to the questionnaire were received in June and July from Guangxi, Guangxi Vinylon Plant (Guangxi Vinylon), which produces PVA sold by Guangxi, and Sichuan. The Department issued supplemental questionnaires to these companies and received responses to them, during August 1995. We also requested and received additional information during September 1995.

The Department invited petitioner and respondents to provide information for valuing the factors of production. The parties submitted such information during August and September 1995.

On September 19, 1995, petitioner amended the petition to exclude from the scope of this investigation polyvinyl alcohols covalently bonded with acetoacrylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, or polyvinyl alcohols covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. We have revised the scope of this investigation to reflect petitioners' amendment (see the "Scope of Investigation" section of this notice, below).

On September 21, 1995, Isolyser Co., Inc. (Isolyser), an importer of the subject merchandise, requested the Department to consider PVA hydrolyzed at a level of at least 98 percent to be a separate like product. Isolyser's request was submitted too late for consideration in the preliminary determination. We will, however, consider it in our final determination.

Scope of Investigation

The merchandise under investigation is polyvinyl alcohol. Polyvinyl alcohol is a dry, white to cream-colored, water-soluble synthetic polymer, usually prepared by hydrolysis of polyvinyl acetate. This product includes polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid, except for polyvinyl alcohols covalently bonded with acetoacrylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, or polyvinyl alcohols

covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent, which are excluded.

The merchandise under investigation is currently classifiable under subheading 3905.20.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation is October 1, 1994, through March 31, 1995.

Separate Rates

Each of the responding PRC exporters, Sichuan and Guangxi, has requested a separate, company-specific rate. According to both respondents' business licenses, each is "owned by all the people". As stated in the *Final Determination of Sales at Less than Fair Value: Silicon Carbide from the People's Republic of China* 59 FR 22585, 22586 (May 2, 1994) (*Silicon Carbide*), and the *Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China* 60 FR 22545 (May 8, 1995) (*Furfuryl Alcohol*), ownership of a company by all the people does not, in itself, require the application of a single rate. Accordingly both respondents are eligible for consideration for a separate rate.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* 56 FR 20588 (May 6, 1991) (*Sparklers*) and amplified in *Silicon Carbide*. Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The respondents have placed on the administrative record a number of documents to demonstrate absence of *de jure* control, including laws, regulations and provisions enacted by the State Council of the central government of the PRC. Respondents have also submitted documents which establish that PVA is not included on the list of products that may be subject to central government export constraints (*Export Provisions*). The Department has reviewed these and

other enactments in prior cases and has previously determined that these laws indicate that the responsibility for managing state-owned enterprises has been shifted from the government to the enterprise itself. (See *Silicon Carbide* and *Furfuryl Alcohol*). Nothing on the record of this investigation would lead us to reconsider this determination.

However, as stated in previous cases, there is some evidence (on this record), that the PRC central government enactments have not been implemented uniformly among different sectors and/or jurisdictions in the PRC (See *Silicon Carbide* and *Furfuryl Alcohol*). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (see *Silicon Carbide* and *Furfuryl Alcohol*).

Each respondent has asserted the following: (1) it establishes its own export prices; (2) it negotiates contracts, without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions, and there is no information on the record that suggests central government control over selection of management; and (4) it retains the proceeds of its export sales, uses profits according to its business needs and has the authority to sell its assets and to obtain loans. In addition, respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is a *de facto* absence of governmental control of export functions.

Consequently, we preliminarily determine that Guangxi and Sichuan have met the criteria for the application

of separate rates. We will examine this matter further at verification and determine whether the questionnaire responses are supported by verifiable documentation.

Nonmarket Economy Country Status

The Department has treated the PRC as a nonmarket economy country (NME) in all past antidumping investigations and administrative reviews (see, e.g., *Silicon Carbide* and *Furfuryl Alcohol*). Neither respondents nor petitioners have challenged such treatment. Therefore, in accordance with section 771(18)(c) of the Act, we will continue to treat the PRC as an NME in this investigation.

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producers' factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the NV section, below.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producers' factors of production, to the extent possible, in one or more market economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department has determined that India, Kenya, Nigeria, Pakistan, Sri Lanka, and Indonesia are the countries most comparable to the PRC in terms of overall economic development (see Memorandum from David Mueller, Director, Office of Policy, to Gary Taverman, Acting Director, Office of Antidumping Investigations, dated June 15, 1995). According to the available information on the record, we have determined that India is the only significant producer of PVA among these six potential surrogate countries. Accordingly, we have calculated Normal Value (NV) using Indian prices for the PRC producers' factors of production. We have obtained and relied upon published, publicly available information wherever possible.

Fair Value Comparisons

To determine whether sales of PVA from the PRC to the United States by Guangxi and Sichuan were made at less than fair value, we compared Export Price (EP) to the NV, as specified in the "Export Price" and "Normal Value" sections of this notice.

Export Price

For both Guangxi and Sichuan, we calculated Export Price (EP) in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation. The constructed export price under section 772(b) is not otherwise warranted on the basis of the facts of this investigation.

Petitioner has claimed that two customers of the respondents are affiliated resellers under section 771(33) through common PRC government control. As we have accepted Guangxi's and Sichuan's separate rates claims based on absence of PRC government control for purposes of the preliminary determination, there is no basis to consider these customers as affiliated parties.

We calculated EP based on packed, FOB PRC port or CIF U.S. port prices to unaffiliated purchasers in the United States, as appropriate. We made deductions from the starting price, where appropriate, for the following services: foreign inland freight, brokerage and handling, loading and containerization, ocean freight, and marine insurance. As all movement services were provided by PRC suppliers, these services were valued in the surrogate country.

We excluded certain U.S. sales by Guangxi from our analysis because the information available at this time indicates that the appropriate date of sale for these transactions is outside the POI.

Normal Value

In accordance with section 773(c) of the Act we calculated NV based on factors of production reported by Sichuan and by Guangxi Vinyon, which produced the PVA for Guangxi. To calculate NV, the reported unit factor quantities were multiplied by Indian values. Where possible, we used public information for the surrogate values. The selection of the surrogate values applied in this determination was based on the quality and contemporaneity of the data. Where possible, we attempted to value material inputs on the basis of a tax-exclusive domestic price. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POI, we adjusted for inflation using wholesale price indices or, in the case of labor rates, consumer price indices, published in the International Monetary Fund's *International Financial Statistics*. For a complete analysis of surrogate values, see the Valuation

Memorandum, dated October 2, 1995. We then added amounts for overhead, general expenses (including interest) and profit, based on the experience of a PVA producer in India (see Valuation Memorandum), and packing expenses incident to placing the merchandise in condition packed and ready for shipment to the United States.

Guangxi's reporting of packing material factor units could not be converted to the weight unit of the surrogate value. For the preliminary determination, we used the factor weights from the public version of Sichuan's response to calculate the value for Guangxi's packing materials.

As we could not identify an appropriate Indian surrogate value for one raw material-nitrogen, we applied an Indonesian price for this factor. Sichuan obtained two raw material factors from market economy sources and paid in market economy currencies. For these two factors, we valued them based on the price actually paid by Sichuan.

China-Wide Rate

MOFTEC identified what we believe to be the only two PRC exporters of PVA to the United States during the POI. Both have responded in this investigation. We compared the respondents' sales data with U.S. import statistics for time periods including the POI and found no indication of unreported sales. Accordingly, we have based the China-wide rate on the weighted-average of the margins calculated in this proceeding.

Verification

As provided in section 782(i) of the Act, we will verify all information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of PVA from the PRC, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service will require a cash deposit or posting of a bond equal to the estimated dumping margins by which the normal value exceeds the export price, as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Guangxi GITIC Import and Export Corp	121.74
Sichuan Vinyon Works	187.56
PRC-Wide Rate	176.10

The PRC-Wide rate applies to all entries of subject merchandise except for entries from exporters that are identified individually above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than November 17, 1995, and rebuttal briefs, no later than November 20, 1995. A list of authorities used and a summary of arguments made in the briefs should accompany these briefs. Such summary should be limited to five pages total, including footnotes. We will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. At this time, the hearing is scheduled for November 22, 1995, the time and place to be determined, at the U.S. Department of Commerce, Room 3606, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b) oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by December 18, 1995.

This determination is published pursuant to section 733(f) of the Act.

Dated: October 2, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

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[A-588-836]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 10, 1995.

FOR FURTHER INFORMATION CONTACT: Ellen Grebasch or Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3773 or (202) 482-0922, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

Preliminary Determination

We preliminarily determine that polyvinyl alcohol (PVA) from Japan is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on March 29, 1995 (60 FR 17053, April 4, 1995), the following events have occurred:

On April 10, 1995, one company, Denki Kagaku Kogyo Kabushiki Kaisha (Denki), requested that it not be required to respond to the antidumping questionnaire in this investigation because it accounted for a small portion of total Japanese exports to the United States. The petitioner stated in a filing that they did not object.

On April 24, 1995, the U.S. International Trade Commission (ITC) notified the Department of Commerce (the Department) of its affirmative preliminary determination.